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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,822	02/14/2007	Rika Koyama	082420-000500US	3961
20350 7590 05/02/2008 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
LENNOX, NATALIE				
ART UNIT		PAPER NUMBER		
2626				
MAIL DATE		DELIVERY MODE		
05/02/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/581,822

**Applicant(s)**

KOYAMA, RIKI

**Examiner**

NATALIE LENNOX

**Art Unit**

2626

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 7 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

With respect to claim 7, applicant claims a computer program. Computer programs *per se* are not physical "things," they are neither computer components nor statutory processes, as they are not "acts" being performed. In other words, computer programs *per se* are nonfunctional descriptive material that does not constitute a statutory process, machine, manufacture or composition of matter. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized. In contrast, a claimed computer-

readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geilhufe et al., hereinafter Geilhufe (US Patent 6,584,439), in view of Miller (US 2002/0128846).

As per claims 1, 6, and 7, Geilhufe teaches a device control device, method, and computer program comprising:

speech recognition means that acquires speech data representing a speech, and performs speech recognition on said speech data, thereby specifying a candidate for a phrase represented by said speech (Col. 10, lines 1-10); and

device control means that specifies a variable to be changed to obtain a result desired by an utterer of said speech, a direction in which said variable is to be changed, and a device which is to be controlled to change said variable, based on said candidate specified by said speech recognition means and data indicating statuses of a plurality of

external devices to be controlled, and controls said specified device in such a way as to change said specified variable in said specified direction (Col. 17, line 60 to Col. 18, line 13, and Col. 13, lines 22-35), wherein

said device control means

controls a device when a number of devices which are controllable in such a way as to change said specified variable in said specified direction is one (Col. 17, line 60 to Col. 18, line 13, Col. 13, lines 22-35, and Col. 19, 46-49).

However, Geilhufe does not specifically mention

when there are a plurality of devices controllable in such a way as to change said specified variable in said specified direction, specifies which one of said controllable devices is desired to be operated based on a candidate specified by further acquisition of speech data by said speech recognition means, and controls said specified device.

Conversely, Miller teaches

when there are a plurality of devices controllable in such a way as to change said specified variable in said specified direction, specifies which one of said controllable devices is desired to be operated based on a candidate specified by further acquisition of speech data by said speech recognition means, and controls said specified device (Paragraph [0026], lines 14-19, paragraphs [0027], and [0028], lines 1-6).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the feature of when there are a plurality of devices controllable in such a way as to change said specified variable in said specified direction, specifies which one of said controllable devices is desired to be operated

based on a candidate specified by further acquisition of speech data by said speech recognition means, and controls said specified device as taught by Miller for Geilhufe's device, method, and computer program because Miller provides a method and system for controlling any medical devices in a hands-free manner (Paragraph [0029]).

As per claim 2, Geilhufe, in view of Miller, teaches the device control device according to claim 1. Geilhufe does not, but Miller does teach wherein when there are a plurality of devices controllable in such a way as to change said specified variable in said specified direction, said device control means outputs data prompting determination of which one of said controllable devices is desired to be operated (Paragraph [0026], lines 14-19, paragraphs [0027], and [0028]).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the feature of when there are a plurality of devices controllable in such a way as to change said specified variable in said specified direction, said device control means outputs data prompting determination of which one of said controllable devices is desired to be operated as taught by Miller for Geilhufe's device, method, and computer program because Miller provides a method and system for controlling any medical devices in a hands-free manner (Paragraph [0029]) and allows efficient control of continuous controls such as joysticks, trackballs, or dials (Paragraph [0015]).

As per claim 3, Geilhufe, in view of Miller, teaches the device control device according to claim 1, wherein

said candidate specified by said speech recognition means represents rise or lower (Geilhufe's Col. 13, line 16 and 22-35),

one of said plurality of controllable devices is an audio device, and a variable to be changed is a volume (Geilhufe's Col. 13 lines 22-35, more specifically lines 32-35), and

another device is a power window, and a variable to be changed is an opening/closing amount of a window (Geilhufe's Col. 13 lines 22-35, more specifically lines 32-35, also Col. 12, lines 49-54).

As per claim 4, Geilhufe, in view of Miller, teaches the device control device according to claim 1, wherein

said candidate specified by said speech recognition means represents rise or lower (Geilhufe's Col. 13, line 16 and 22-35),

one of said plurality of controllable devices is an air conditioner, and a variable to be changed is a temperature (Geilhufe's Col. 13 lines 22-35, more specifically lines 32-35, also Col. 12, lines 34-37 and 49-54), and

another device is a power window, and a variable to be changed is an opening/closing amount of a window (Geilhufe's Col. 13 lines 22-35, more specifically lines 32-35, also Col. 12, lines 49-54).

As per claim 5, Geilhufe, in view of Miller, teaches the device control device according to claim 1, wherein

said candidate specified by said speech recognition means represents rise or lower (Geilhufe's Col. 13, line 16 and 22-35),

one of said plurality of controllable devices is an air conditioner, and a variable to be changed is a temperature (Geilhufe's Col. 13 lines 22-35, more specifically lines 32-35, also Col. 12, lines 34-37 and 49-54), and

another device is an audio device, and a variable to be changed is a volume (Geilhufe's Col. 13 lines 22-35, more specifically lines 32-35).

### ***Conclusion***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
2. Buchner et al. (US 2002/0069063) provides a speech recognition control of remotely controllable devices in a home network environment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATALIE LENNOX whose telephone number is (571)270-1649. The examiner can normally be reached on Monday to Friday 9:30 am - 7 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571)272-7602. The fax phone



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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NL 04/22/2008

/Richemond Dorvil/  
Supervisory Patent Examiner, Art Unit 2626